

**REGION 17**  
**UNITED STATES TRUSTEE PROGRAM**

**GUIDELINES**

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# UNITED STATES TRUSTEE GUIDELINES

## REGION 17

The United States Trustee is charged pursuant to 28 U.S.C. § 586 and other applicable statutes with the supervision of the administration of bankruptcy cases. The law invests in the United States Trustee wide-ranging responsibilities and broad discretionary authority to carry out this mandate.

A person who conceals from the United States Trustee any property belonging to the estate of a debtor or withholds from the United States Trustee entitled to its possession any recorded information (including books, documents, records, and papers) relating to the property or financial affairs of a debtor may be subject to criminal prosecution under 18 U.S.C. § 152.

A person who, as a custodian, debtor in possession, or trustee, knowingly refuses to permit a reasonable opportunity for the inspection by the United States Trustee of the documents and accounts in that person's charge relating to the affairs of an estate may be subject to criminal prosecution under 18 U.S.C. § 154.

### 1. FILING AND SERVICE OF PAPERS & PLEADINGS

**1.1. SERVICE ON UNITED STATES TRUSTEE:** Pursuant to F.R.B.P. 9034 and 5005, the United States Trustee requests that copies of all notices, reports, papers, and orders filed with the court in Chapter 11 and 7 cases and all pleadings and orders in adversary proceedings in these cases be contemporaneously served on the division of the Office of the United States Trustee responsible for supervising the case except the following:

- Proofs of claim
- Chapter 7 Relief from Stay papers
- Chapter 7 Avoidance of Lien papers
- Reaffirmation/redemption papers
- Discovery

In Chapter 12 cases, only the Petition, Schedules, Statement of Affairs, Monthly Operating Reports, Orders, Plans, Fee Applications, and Conversion, Dismissal, and Discharge papers need be served on the United States Trustee.

In Chapter 13 cases, only the 341 Notice, Petition, Schedules, Statement of Affairs, Orders, Plans, Fee Applications, and Conversion, Dismissal, and Discharge papers need be served on the United States Trustee.

**1.2. INFORMATION BY FACSIMILE:** The United States Trustee does not accept service by facsimile unless prior arrangement has been made with the attorney assigned to the case. Facsimile transmissions may be accepted for informational purposes, but the United States Trustee undertakes no responsibility for incomplete, imperfectly received or misdirected transmission and requires a hard copy be served.

### 2. EMPLOYMENT AND COMPENSATION OF PROFESSIONAL PERSONS

If the debtor in possession or trustee requires the representation or assistance of a professional person, the debtor in possession or trustee shall promptly seek approval of the court to employ the professional unless the professional meets the requirements of 11 U.S.C. § 327(b).

**2.1. APPLICATION AND EMPLOYMENT OF PROFESSIONALS:** An application, together with the verified statement pursuant to F.R.B.P. 2014 and the form of order approving such employment, shall be filed with the court and contemporaneously transmitted to the United States Trustee. The United States Trustee shall have a period of five (5) court days after the date of service to file objections, if any, to the application.

The following list of items shall appear in an application to employ a professional. The list is neither exclusive nor exhaustive and, depending upon the scope of the employment, may vary considerably; however, an application to employ a professional shall, at a minimum, comply with 11 U.S.C. §§ 327-9, F.R.B.P. 2014, 2016, 5002, 9034, and the Local Rules of the district in which the case is pending.

In the District of Nevada, the application shall include the following:

Reviewed: \_\_\_\_\_  
United States Trustee

**2.1.1. SCOPE OF EMPLOYMENT:** As to each professional, the application shall state the necessity for employment, the name and address of the professional, the reason for selecting the professional, the professional's qualifications, and the scope of the services to be rendered.

**2.1.2. TERMS OF EMPLOYMENT:** The application shall state the terms and conditions of the employment, including the dates and amounts of all payments related to the case, the source of such payments if other than debtor, the current hourly rate(s) for the professionals and paraprofessionals expected to render services, and other charges that may be considered in an application for compensation and reimbursement of expenses. A copy of any employment agreement shall be attached to the application.

**2.1.3. PRE-PETITION EMPLOYMENT:** The application shall state whether the professional was retained for pre-petition services other than bankruptcy-related services, the date such services were commenced, a general description of the services rendered, the amount of fees or costs previously paid, the amount, if any, of fees or costs currently billed, and whether there is a retainer balance.

**2.1.4. PROFESSIONAL DISCLOSURE:** The application shall be accompanied by a verified statement by the professional showing that the professional complies with the requirements of 11 U.S.C. §§ 101(14), 327-9, F.R.B.P. 2014, 2016, and 5002. (To determine the professional's connections, if any, with the United States Trustee, a list of the persons employed by the United States Trustee is available upon request.)

**2.1.5. TIMELY FILING OF APPLICATION:** The application shall be filed with the court within fifteen (15) days after commencement of the bankruptcy case or within fifteen (15) days after the agreement is entered to employ the professional.

**2.2. COMPENSATION AND REIMBURSEMENT OF PROFESSIONALS:** No professional person may be paid without court approval unless otherwise permitted by the Bankruptcy Code.

**2.2.1. FEE AND EXPENSE GUIDELINES:** Consult the Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed under 11 U.S.C. § 330 adopted by the Executive Office for United States Trustees pursuant to 28 U.S.C. § 586(a)(3)(A) available from the United States Trustee, and any applicable court guidelines available from the clerk of the United States Bankruptcy Court.

Pursuant to the duty to review fees and F.R.B.P. 2014, the United States Trustee may request in appropriate cases a fee budgeting process for the debtor in possession, trustee or creditors' committee, requiring an analysis of the proposed services to be rendered by their professionals, the benefit to the estate, the estimated time involved, and the estimated costs.

**2.2.2. CLIENT'S REVIEW OF BILLING STATEMENT:** The debtor in possession, trustee, and creditors' committee shall exercise reasonable business judgment in monitoring the fees and expenses of the estate's professionals. A fee application shall include a written statement by the client that the client has reviewed the billing, indicating what objections, if any, the client has remaining. If the client is unwilling to provide such a statement, the professional shall certify that the bill was provided to the client, the client was informed of this requirement, and the client has declined to comply.

**2.2.3 APPLICATIONS FOR FINAL ALLOWANCE:** A final application shall be filed by each professional at the conclusion of the case. The application shall seek approval of all prior payments of compensation and reimbursement of expenses, including the application of any pre-petition retainer, and shall state the total amounts sought to be finally allowed and approved for payment.

### **3. BANKRUPTCY PETITION PREPARERS**

Section 110 of the Bankruptcy Code provides civil penalties for persons, other than an attorney or an employee of an attorney, who negligently or fraudulently prepare bankruptcy petitions or any other document for filing by a debtor in connection with a bankruptcy case. All petition preparers shall comply with the requirements of 11 U.S.C. § 110. Failure to comply with § 110 may result in civil enforcement action by the United States Trustee or subject the preparer to criminal prosecution under 18 U.S.C. § 156.

### **4. CHAPTER 11 GUIDELINES**

With the filing of a Chapter 11 petition, a debtor becomes a new entity called a debtor in possession. The debtor in possession has fiduciary and statutory responsibilities to preserve and maintain the bankruptcy estate and to operate as efficiently as possible to maximize ultimate payments on pre-petition debts while keeping post petition debts current.

These Guidelines are issued to assist debtors who, as debtors in possession, perform the functions and duties of the trustee of the estate pursuant to 11 U.S.C. § 1107, their attorneys, and, where appropriate, trustees in satisfying their statutory duties and to aid in the administration of cases. ("Debtor" shall refer generally to debtor and to trustee.) The United States Trustee may seek conversion or dismissal of a case, the appointment of a trustee, or other remedies the United States Trustee deems appropriate should Debtor fail to comply with the requirements of these Guidelines. Debtor shall obtain from the clerk's office in the United States Bankruptcy Court copies of applicable court guidelines (e.g., professional's compensation and reimbursement; guidelines for cash collateral and financing matters; forms for Monthly Operating Reports). See also the Local Rules. These guidelines do not supersede the Local Rules or guidelines of the court.

**4.1. INITIAL DEBTOR INTERVIEW (IDI):** Debtor shall attend all conferences scheduled by the Office of the United States Trustee. Shortly after the commencement of the case and before the meeting of creditors, the Office of the United States Trustee will schedule an Initial Debtor Interview (IDI) to review the reasons for debtor's financial difficulties, the responsibilities and duties of a debtor in possession, the prospects for a plan, and the financial information provided by debtor.

**4.2. MEETING OF CREDITORS:** A first meeting of creditors will generally be held 20 to 40 days after the petition is filed. Debtor or debtor's designated responsible individual shall attend and respond, under oath, to questions from the United States Trustee and creditors, regarding debtor's financial affairs, the cause of the bankruptcy, and the status of debtor's reorganization efforts. (11 U.S.C. §§ 341, 343.)

**4.3. UNSECURED CREDITORS' COMMITTEE:** As soon as possible after the entry of an order for relief, the United States Trustee will invite the 20 largest unsecured creditors to an organizational meeting for the purpose of forming an unsecured creditors' committee. This organizational meeting may be held in conjunction with the first meeting of creditors or it may be scheduled separately. Debtor and Debtor's counsel may be requested to attend this meeting. (11 U.S.C. § 1102.) If a committee is appointed by the United States Trustee, Debtor shall promptly meet with the committee and shall serve each member of the committee and the committee's counsel, if appointed, with copies of Monthly Operating Reports.

**4.4. UNITED STATES TRUSTEE MONITORING OF DEBTOR:** The United States Trustee will monitor, inter alia, the following activities of Debtor:

**4.4.1. SCHEDULES AND STATEMENT OF AFFAIRS:** Verified Schedules and Statement of Affairs shall be filed within fifteen (15) days of the filing of the bankruptcy petition and the list of creditors. F.R.B.P. 1007, 1008.

**4.4.2. LIST OF 20 LARGEST NON-INSIDER UNSECURED CREDITORS:** The list required by F.R.B.P. 1007(d) of Debtor's twenty (20) largest unsecured creditors, excluding insiders as defined in 11 U.S.C. § 101(31), shall include, if known, the telephone number(s) of each such creditor and the name of a

specific contact person.

**4.4.3. AUTHORITY FOR FILING PETITION OR COMMENCING CASE:** If Debtor is not an individual, proof of authorization to commence the case (e.g., if Debtor is a corporation, a resolution by the Board of Directors; if Debtor is a partnership, the consent of all general partners) shall be provided to the United States Trustee within fifteen (15) days of the commencement of the Chapter 11 case.

**4.4.4. DESIGNATION OF RESPONSIBLE INDIVIDUAL:** If Debtor is not an individual, Debtor shall designate a natural person to be responsible for the duties and obligations of Debtor and provide to the United States Trustee the name, address, telephone number and position of such person within fifteen (15) days of the commencement of the case or immediately after any change in the designation.

**4.4.5. BOOKS AND RECORDS:** The books and records of Debtor shall be closed as of the day immediately preceding the commencement of the case and a new set of books and records opened thereafter. Debtor shall provide to the United States Trustee with Debtor's first Monthly Operating Report a copy of the closing balance sheet and income statement.

**4.4.6. BANK ACCOUNTS:** Debtor shall close all financial accounts that existed before the Chapter 11 case and establish new debtor in possession accounts to be used for all transactions during the pendency of the case.

(a) Debtor shall provide to the United States Trustee proof of the establishment of debtor in possession account(s) within fifteen (15) days of the commencement of the case or, if additional accounts are subsequently opened, immediately after the establishment of the account.

(1) All accounts shall be maintained only in depositories that are on the List of Cooperating Depositories unless Debtor obtains prior written approval from the United States Trustee to use a non-cooperating. See 11 U.S.C. § 345. A list of the qualifying depositories may be obtained from the United States Trustee.

(2) Debtor shall establish one or more general accounts and such other accounts (e.g., payroll) as are necessary for Debtor's continued operation. Any Debtor required to pay taxes shall maintain a separate tax account to segregate all withholding, social security (both employees' and employer's portions), excise and agricultural taxes or other monies collected, received or withheld for or on behalf of the United States or other taxing authorities.

(3) All bank signature cards shall state that debtor is a "Debtor in Possession."

(4) Acceptable proof of the establishment of a debtor in possession account includes: a copy of the signature card, a check imprinted with the "debtor in possession" designation, or a current bank statement imprinted with the "debtor in possession" designation.

(b) As soon as practicable after the commencement of the case, Debtor shall close all financial accounts that existed before the Chapter 11 case and transfer all funds to the debtor in possession account(s). Within fifteen (15) days of the commencement of the case, Debtor shall provide to the United States Trustee for each account a copy of all check register(s) covering the ninety (90) day period prior to the commencement of the case. Debtor shall, on request of the United States Trustee, provide original check registers, bank statements and canceled checks for inspection by the United States Trustee.

(c) Within forty-five (45) days after the commencement of the case, Debtor shall provide to the United States Trustee a copy of the first post-petition bank statement for each financial account that existed prior to the commencement of the case showing the account was closed or transferred to a debtor in possession account.

**4.4.7. INSURANCE COVERAGE:** Debtor shall obtain or maintain sufficient insurance coverage to protect the assets of the estate. "Sufficient insurance" means insurance that is sufficient to cover the full value of the asset, not just the amount of any secured interest.

(a) Where appropriate, Debtor shall obtain or maintain, as appropriate, general liability, casualty, vehicle, worker's compensation, unemployment, employee health, malpractice, products liability, liquor or dram shop, or homeowner's insurance.

(b) Within fifteen (15) days of the commencement of the case, Debtor shall provide to the United States Trustee copies of the declaration pages of all applicable insurance policies or binders, together with the expiration date for each, showing Debtor as a named insured of a current policy.

(c) Debtor shall provide to the United States Trustee updated proof of insurance as such policies expire by attaching copies of the new declaration page to the Monthly Operating Report.

(d) Debtor shall immediately notify the United States Trustee in writing of any changes in insurance coverage.

**4.4.8. TAX RETURNS:** Within fifteen (15) days of the commencement of the case, Debtor shall provide the United States Trustee copies of Debtor's federal income tax returns, including all schedules and attachments, for the prior two years. Debtor shall timely file all applicable tax returns during the pendency of the case and shall contemporaneously provide to the United States Trustee a copy of each return.

**4.4.9. REAL PROPERTY QUESTIONNAIRE:** Within fifteen (15) days of the commencement of the case, Debtor shall provide to the United States Trustee a completed Real Property Questionnaire for each property in which Debtor has an interest. If the real property is rental property, a rent roll shall be included.

**4.4.10. ACCOUNTS RECEIVABLE:** Within fifteen (15) days of the commencement of the case, Debtor shall provide the United States Trustee with an aging report regarding debtor's accounts receivable.

**4.4.11. INVENTORY:** Within fifteen (15) days of the commencement of the case, Debtor shall provide the United States Trustee with a complete inventory.

**4.4.12. EMPLOYEES:** Debtor shall provide to the United States Trustee with Debtor's first Chapter 11 Monthly Operating Report a list of all Debtor's employees at the time of the commencement of the case, including the name, position, and salary of each employee. A waiver of the requirement to provide this information for all employees may be discussed at the IDI.

**4.4.13. DISCLOSURE OF INSIDER TRANSACTIONS:** Debtor shall promptly disclose, in writing, to the United States Trustee any present or proposed material transactions in which insiders have any interest during the pendency of the case. The disclosure shall identify the insider, the insider's affiliation with Debtor, the proposed transaction, and the nature of the insider's interest in the transaction.

#### **4.5. CHAPTER 11 MONTHLY OPERATING REPORTS**

**4.5.1. DUE DATE:** On or before the 20th day of the month immediately following the month described in the report, Debtor shall file with the court and contemporaneously serve on the United States Trustee a report for every calendar month or portion thereof during which the case is pending ("Monthly Operating Report") until the date of entry of an order confirming a plan or dismissing or converting the case.

**4.5.2. CONTENTS:** The format of the Monthly Operating Report shall be determined at the IDI. In the Northern District of California, a diskette with the approved forms is available from the United States Trustee.

**4.5.3. ELIGIBILITY FOR EXEMPTION OR WAIVER:** Debtor shall use the form prescribed by the United States Trustee unless excused by court order or directive or expressly consented to in writing by the attorney for the United States Trustee assigned to the case. A Debtor that seeks a modification of the reporting requirements for good cause shown shall first apply to the United States Trustee for approval of the form of the Monthly Operating Report to be submitted. If the United States Trustee declines to approve the form proposed by Debtor, Debtor may apply to the Court, on notice to the United States Trustee, for authority to submit an alternate form of financial report. A Debtor eligible for exemption or waiver of the prescribed form shall provide a monthly "Summary of Financial Status."

**4.5.4. ATTESTATION:** The cover page of each Monthly Operating Report shall be executed under penalty of perjury by Debtor or the designated responsible individual of Debtor, as follows:

**I declare under penalty of perjury under the laws of the United States that this report and the documents attached hereto are true and correct.**

Executed on (date)  
(City), (State)

(Signature)  
(Print Name)

**4.5.5. INTER-COMPANY TRANSACTIONS:** Where debtor and debtor's insiders were previously treated on a consolidated basis, the Monthly Operating Report shall show the separate treatment of Debtor from the date of the commencement of the case.

**4.5.6. OPERATION OF DEBTOR'S BUSINESS/PROFITABILITY:** Debtor is expected to operate any business at a level sufficient to pay expenses of administration without an operating loss and at a level of profitability sufficient to demonstrate that reorganization is feasible.

**4.5.7. TAX STATEMENT:** Debtor shall file with the Monthly Operating Report a verified statement for the preceding calendar month showing (1) the amounts collected, received or deducted for each taxing agency; (2) the total amount expended for gross payroll; (3) the amount received from gross sales; and (4) the amount paid to each taxing agency and dates of payments.

**4.5.8. REVIEW OF MONTHLY OPERATING REPORTS BY UNITED STATES TRUSTEE:** Failure to file Monthly Operating Reports or Monthly Operating Reports that show a downward financial trend and an unlikelihood of reorganization can be cause for conversion or dismissal pursuant to 11 U.S.C. § 1112(b).

## **5. CHAPTER 11 QUARTERLY FEE PAYMENTS**

5.1. FEE SCHEDULE: Quarterly fees pursuant to 28 U.S.C. §1930(a)(6) shall be paid to the United States Trustee in all Chapter 11 cases in accordance with the following schedule:

### **FEE SCHEDULE**

<b>TOTAL DISBURSEMENTS DURING QUARTER FEE</b>	<b>FEE</b>
Less than \$ 15,000.00	\$ 250
15,000 TO 74,999.99	\$ 500
75,000 TO 149,999.99	\$ 750
150,000 TO 224,999.99	\$ 1,250
225,000 TO 299,999.99	\$ 1,500
300,000 TO 999,999.99	\$ 3,750
1,000,000 TO 1,999,999.99	\$ 5,000
2,000,000 TO 2,999,999.99	\$ 7,500
3,000,000 TO 4,999,999.99	\$ 8,000
5,000,000 and above	\$10,000

**5.2. RESPONSIBILITY FOR PAYMENT OF FEES:** The fees shall be paid to the United States Trustee every calendar quarter or portion thereof. The fees accrue from the date the Chapter 11 case is commenced until the date of entry of a final decree or an order dismissing or converting the case. A minimum fee of \$250 is due each quarter even when no disbursements are made. There is no proration of the fee owed based upon the length of time a debtor is in Chapter 11. The fee is based only on the disbursements made during the pendency of the Chapter 11 case. Debtor is responsible for providing Monthly Operating Reports and Quarterly Post-Confirmation Reports, indicating all cash disbursements for the relevant period, so that the fees can be determined. Fees shall be paid no later than one month following the calendar quarter for which the fee is owed.

**5.3. FAILURE TO MAKE PAYMENTS:** Failure to pay the quarterly fee is cause for conversion or dismissal of a Chapter 11 case pursuant to 11 U.S.C. § 1112(b)(10). Requests for a voluntary dismissal and applications for compensation may be objected to by the United States Trustee if all fees have not been paid.

**5.4. METHOD OF PAYMENT:** A billing and a payment coupon with Debtor's account number will be mailed each quarter. Quarterly fee payments are to be made payable to "The United States Trustee" and are to be returned with the payment coupon to:

**United States Trustee Payment Center  
P.O. Box 198246  
Atlanta, GA. 30384-8246**

Include the account number (or debtor's name and case number if the account number is not known) on the check. Fees are not to be mailed or delivered to the local office of the United States Trustee unless prior arrangement has been made with the attorney assigned to the case. If Debtor does not receive a billing, it remains the responsibility of Debtor to forward timely payments to the payment center.

**5.5. RETURNED CHECK:** If any check is returned "unpaid" for any reason, Debtor shall make all subsequent payments by cashier's check, certified check, or money order.

**5.6. PAYMENT REQUIRED FOR CONFIRMATION:** A plan cannot be confirmed unless all fees payable under 28 U.S.C. § 1930 have been paid or the plan provides for the payment of such fees on the effective date of the plan.

## **6. CHAPTER 11 OPERATIONS**

**6.1. RISK TO PUBLIC/COMPLIANCE WITH LAW:** Debtor shall manage and operate the business of Debtor without risk to the public and in compliance with federal, state, and local law. See 28 U.S.C. § 959(b).

**6.2. CASH COLLATERAL:** Debtor shall not use cash collateral without court approval unless otherwise permitted by the Bankruptcy Code.

**6.3. USE, SALE OR LEASE OF PROPERTY OUTSIDE THE ORDINARY COURSE:** In addition to the information required by the Bankruptcy Code and Federal Rules of Bankruptcy Procedure, a notice regarding the use, sale or lease of property of debtor's estate outside of the ordinary course of business shall provide full disclosure of the proposed disposition of the property, including the identity of the parties to the transaction and their connections, if any, to Debtor, the consideration to be received by the estate or any other party to the transaction, and whether any contingent or concurrent transactions are tied to the proposed disposition of property.

(a) **SALE OF PROPERTY:** If the proposed disposition is a sale of property, the notice shall disclose the scheduled value and the sale price of the property and state whether the sale is subject to or free and clear of liens.

(b) **NO LENDING:** Debtor shall not make any loan without court approval unless otherwise permitted by the Bankruptcy Code. Debtor may not honor a past guaranty or give a post-petition guaranty without court approval.

**6.4. BORROWING:** Debtor shall not borrow funds without court approval unless otherwise permitted by the Bankruptcy Code.

**6.5. PAYMENT OF PRE-PETITION DEBTS:** Debtor shall not make any payment of pre-petition debt without court approval unless otherwise permitted by the Bankruptcy Code.

**6.6. PAYMENT OF POST-PETITION DEBTS:** Debtor shall remain current on all post-petition debts.

(a) **ADMINISTRATIVE PRIORITY TAXES:** Debtor shall make payment in full of all administrative priority local, state and federal income, employment, and other taxes, including sales and use taxes, which accrue after the commencement of the case.

(b) **ADMINISTRATIVE PRIORITY WAGES AND EMPLOYEE BENEFITS:** Debtor shall make payment in full of all administrative priority wages and other employee benefits, including unemployment insurance, disability insurance and withheld personal income taxes, which accrue after the commencement of case.

**6.7 COMPROMISES OR SETTLEMENTS:** Debtor shall not compromise or settle a controversy without court approval unless permitted by the Bankruptcy Code.

## **7. PLAN**

**7.1. DISCLOSURE STATEMENTS:** A disclosure statement shall be filed with a proposed plan of reorganization. The statement should be concise and easy to read and shall comply with 11 U.S.C. § 1125 and F.R.B.P. 3016. The following list is not exclusive but includes items generally recommended for inclusion in a disclosure statement:

(a) **PURPOSE OF THE DISCLOSURE STATEMENT:** The disclosure statement should state that its purpose is to provide adequate information to enable a hypothetical reasonable investor typical of the holders of claims or interests in the case to make an informed judgment about the proposed plan. The source of the information contained in the statement should be disclosed and a determination of the reliability of the information should be made.

(b) **DESCRIPTION OF BUSINESS:** The statement should describe debtor's business, including those factors which may be unusual or peculiar to the business such as seasonal cycles and unique product lines.

(c) **REASONS FOR FINANCIAL DIFFICULTIES AND CORRECTIONS MADE:** The statement should contain a brief narrative description of the reasons for debtor's financial difficulties leading to the Chapter 11 bankruptcy and the actions taken to alleviate the situation since the commencement of the case.

(d) **HISTORICAL AND CURRENT FINANCIAL INFORMATION:** The statement should include debtor's historical financial data, post-petition financial data, including updated Monthly Operating Report information and a pro forma balance sheet as of the date of confirmation. Copies of relevant Monthly Operating Reports, or excerpts, should be attached. Where possible, financial information should be provided on both a cash and accrual basis.

(e) **MATERIAL POST-PETITION EVENTS:** The statement should describe significant post-petition events (e.g., appointment of a creditor's committee and the position of the committee with respect to the plan, a trustee, or an examiner, post-petition financing or sale of assets, and any modification or termination of the automatic stay).

(f) **LEGAL PROCEEDINGS:** The statement should briefly describe all material legal proceedings to which Debtor is, or may become, a party. The description should include the court in which the litigation is pending, its present status, the relief sought, and the effect, if any, on the plan.

(g) **ASSETS:** The statement should provide a review of the scheduled assets and their values, an estimate of the current value of all debtor's assets and the basis of such estimated values, (e.g., cost or appraisals), and an explanation of any deviation from the scheduled value.

(h) **LIABILITIES:** The statement should provide a review of the scheduled claims and their amounts and an estimate of the current amounts of all debtor's liabilities, including proofs of claim filed in the case. The disclosure statement should indicate whether any claims are disputed and what action will be taken to resolve the dispute.

(i) **DESCRIPTION OF THE PLAN:** The statement should give a description of the major provisions of the plan, including, where practicable, estimated date creditors can expect to receive payment, expected percentage return on claims, description and approximate size of each class of creditors together with the estimated aggregate dollar amount of the claims in each class and summary of the treatment of each class. The description need not be detailed and may refer to the plan for more information.

(j) **MEANS OF EFFECTUATING THE PLAN:** The statement should include how the goals of the plan are to be accomplished, e.g., infusion of cash by an investor, sale of real or personal property, continued business operations, or issuance of stock. If an investor is to provide funds, financial information about the investor should be included.

(k) **CASH REQUIREMENTS AND ADMINISTRATIVE EXPENSES:** The statement should describe the amount and source of cash to be paid upon confirmation of the plan or its effective date. The disclosure statement should also describe the administrative expenses, including an estimate of the amount of professional fees and costs that must be paid, the parties to whom the expenses are owed, and whether any parties consent to an alternative treatment.

(l) **LIQUIDATION ANALYSIS:** The statement should describe the difference between treatment of creditors under the plan and treatment under a Chapter 7 liquidation. The statement should estimate the recovery on potential avoidance actions, if any. Where debtor is a partnership, the disclosure statement should describe the rights of a Chapter 7 trustee under 11 U.S.C. § 723, including an estimate of any recovery and relevant financial information about the general partners. Assumptions regarding liquidation values should be disclosed.

(m) **PROJECTIONS:** Where applicable, the statement should include projections as far into the future as practicable, including assumptions used in formulating the projections such as expected sales levels, gross income and net profit/loss levels, and inventory acquisition, and an explanation of why the projections are realistic. The period covered by the projections should coincide with the period of payment deferral under the plan.

(n) **MANAGEMENT COMPENSATION:** The statement should contain the information required by 11 U.S.C. § 1129(a)(5). For a plan implemented over time, the statement should identify persons that will control the debtor

following confirmation and describe the nature and extent of control to be exercised; the business of the controlling person; the identity and experience of management of the controlling person; the identity of affiliates of the controlling person; the transaction whereby control is to be acquired; the business plans, if known, of the controlling person for debtor; pertinent financial information about the controlling person, if available; and bonding information, if applicable.

(o) **INSIDER CLAIMS:** For claims of insiders, the statement should disclose the identity of each claimant, the claimant's affiliation to debtor, the circumstances giving rise to the claim, and the amount and treatment of the claim. The statement should also include any material consideration provided or to be provided to an insider in connection with the case, regardless of the source of payment or whether the consideration is payable under the plan.

(p) **STOCK ISSUED FOR DEBT:** If the plan provides for the issuance of stock for all or part of the debt, the statement should state whether the stock is exempt from securities laws under 11 U.S.C. § 1145. The disclosure statement should describe the nature of the stock or securities, including voting rights, accumulation of dividends, liquidation preference, the existence of other classes of stock, and registration rights.

(q) **VOTING:** The statement should describe in detail the vote required to constitute acceptance of the plan as set forth in 11 U.S.C. § 1126.

(r) **SIGNATURE:** The disclosure statement shall be signed by the debtor.

**7.2. FINAL REPORT AND ACCOUNT:** Debtor at the hearing on the confirmation of the plan should advise when all post-confirmation matters will be completed and when a motion for final decree will be filed. After confirmation of a plan, Debtor shall file a quarterly report in the form prescribed by the United States Trustee until the entry of a final decree. In addition, Debtor shall file such other reports as are necessary or as the court orders. See 11 U.S.C. § 1106(a)(7). After the estate is fully administered, Debtor shall file a final account and move for a final decree. See 11 U.S.C. §§ 704(9), 1106(a)(1), 1107(a), F.R.B.P. 3022.

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